



New South Wales

Pill Testing Trial Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to provide for the trial of pill testing services for the purposes of drug harm reduction in accordance with a licensing scheme to be administered by the Secretary of the Ministry of Health (the *Secretary*). The proposed Act provides for pill testing of prohibited drugs, substances specified in Schedules 2–8 of the NSW Poisons Schedules (*scheduled substances*) and other substances that would cause harm if ingested.

The Bill also provides that the possession and provision of prohibited drugs and scheduled substances in accordance with a licence under the proposed Act will not constitute an offence under the *Drug Misuse and Trafficking Act 1985*, the *Poisons and Therapeutic Goods Act 1966* or the *Medicines, Poisons and Therapeutic Goods Act 2022*.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 sets out the objects of the proposed Act.

Clauses 4–8 contain provisions relating to the interpretation of the proposed Act.

Part 2 Pill testing licences

Clauses 9–25 contain provisions for the licensing scheme authorising a person to conduct pill testing of prohibited drugs, scheduled substances and other substances that would cause harm if ingested. The provisions enable a person to apply for a mobile pill testing licence or a fixed premises pill testing licence.

An application for a pill testing licence must be accompanied by a prescribed fee and the internal management protocols the applicant intends to apply. The Secretary will have the power to investigate an application and must be satisfied that the applicant and each associate of the applicant is a suitable person to be concerned in, or associated with, pill testing. A licence must not be granted if the applicant or an associate of the applicant has been found guilty of a serious offence. The Secretary may also refuse to grant a licence on certain other grounds.

If a licence is issued, it continues to be in force for 2 years, and will continue to be in force for another 3 years after 2 years from the commencement of the proposed Act. Conditions may be imposed by the Secretary on a licence, in addition to conditions imposed by the proposed Act or by the regulations.

Substances provided for pill testing may be transferred from a mobile pill testing place to a fixed premises pill testing place, and amnesty bins at these pill testing places will enable the substances to be kept securely and destroyed after the pill testing service has been provided.

Prescribed results from any pill testing services provided must be notified to the Chief Health Officer, the Secretary and the Commissioner of Police and published on the website of the Ministry of Health if the Secretary is satisfied that it is in the public interest to do so.

Part 3 Relationship with other laws

Clauses 26–28 contain provisions outlining how the proposed Act relates to the *Drug Misuse and Trafficking Act 1985*, the *Medicines, Poisons and Therapeutic Goods Act 2022* and the *Environmental Planning and Assessment Act 1979*. The licensing scheme will operate essentially as an exemption from the *Drug Misuse and Trafficking Act 1985* and the *Medicines, Poisons and Therapeutic Goods Act 2022*, which would otherwise prohibit the possession and supply of prohibited drugs and scheduled substances.

Part 4 Miscellaneous

Clauses 29–34 contain miscellaneous provisions of an administrative nature, including the general regulation-making power and a provision repealing the proposed Act in 2 years or on a later day prescribed by the regulations.